

Applicant respectfully traverses the restriction requirement. However, to be fully responsive, Applicant elects the subject matter of alleged Species I. Applicant respectfully submits that claims 42-54, 56-78, and 82 read on alleged Species I. Additionally, at least claims 42-53, 56-74, 78, and 82 are generic to alleged Species I, II, and III.

The Office Action asserts that "the species are not so linked as to form a single general inventive concept as the generic invention linking the embodiments as illustrated by claims 42 and 68 does not define over the prior art - note for example Waldron et al. (US 3,157,545) cited in the international search report discloses a method/apparatus that satisfies the noted claims." Office Action at p. 3. However, the Office Action has not explained how Waldron purportedly "satisfies the noted claims", and Applicant does not necessarily agree with or adopt the Examiner's assertion that Waldron does so. Furthermore, whether Waldron shows the subject matter of claims 42 and 68 does not dictate that alleged Species I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1. Hence, the election of species requirement is improper on its face.

Furthermore, Applicant respectfully refers the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of all the claims in an application can be made **without serious burden**, the examiner **must** examine them on the merits, even though they include claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining alleged Species I, II, and III together would constitute a serious burden, irrespective of whether or not they relate to a single general inventive concept. The Examiner does not specify what serious burden will be placed on the Examiner if the Examiner were to proceed in examining alleged Species I, II, and III together, as required by M.P.E.P. § 803.

If the Examiner chooses to maintain the election of species requirement, Applicant expects the Examiner, if the elected species is found allowable, to continue to examine the full scope of the elected subject matter to the extent necessary to determine the patentability thereof, *i.e.*, extending the search to a "reasonable" number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If there is any fee due in connection with the filing of this Response, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 

Neil T. Powell
Reg. No. 45,020

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